

Decision \_\_\_\_\_

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric Company  
for Approval of Ratepayer Funding to Perform  
Additional Seismic Studies Recommended by the  
California Energy Commission. (U39E)

Application 10-01-014  
(Filed January 15, 2010  
reopened September 23, 2011)

**DECISION GRANTING INTERVENOR COMPENSATION TO ALLIANCE FOR  
NUCLEAR RESPONSIBILITY FOR SUBSTANTIAL  
CONTRIBUTION TO DECISION 12-09-008**

<b>Claimant: Alliance for Nuclear Responsibility (A4NR)</b>	<b>For contribution to Decision (D.) 12-09-008</b>
<b>Claimed: \$289,342.50<sup>1</sup></b>	<b>Awarded: \$273,218.20 (reduced 6%)</b>
<b>Assigned Commissioner: Michel Peter Florio</b>	<b>Assigned ALJ: ALJ Division</b>

**PART I: PROCEDURAL ISSUES**

<b>A. Brief Description of Decision:</b>	Decision grants Pacific Gas and Electric Company (PG&E) authority to include in customer rates an additional \$47.5 million above the amount approved in D.10-08-003 to perform seismic studies, subject to certain conditions.
--	---

**B. Claimant must satisfy intervenor compensation requirements set forth in Public  
Utilities Code §§ 1801-1812:**

	<b>Claimant</b>	<b>CPUC Verified</b>
<b>Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):</b>		
1. Date of Prehearing Conference:	11/30/2011	Correct
2. Other Specified Date for NOI:		
3. Date NOI Filed:	12/8/2011	Correct
4. Was the NOI timely filed?		Yes

<sup>1</sup> In the original claim, the total amount A4NR claimed was listed as \$293,422.85. However, after reviewing A4NR's calculations, mathematical error(s) were discovered, leading to the correct subtotal of \$289,342.85. This error has been corrected.

Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	Application (A.) 10-01-022	Correct
6. Date of ALJ ruling:	7/2/2010	Correct
7. Based on another CPUC determination (specify):		
8. Has the Claimant demonstrated customer or customer-related status?		Yes
Showing of “significant financial hardship” (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	A.10-01-022	Correct
10. Date of ALJ ruling:	7/2/2010	Correct
11. Based on another CPUC determination (specify):		
12. Has the Claimant demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.12-09-008	Correct
14. Date of Issuance of Final Order or Decision:	9/18/2012	Correct
15. File date of compensation request:	11/19/2012	11/16/2012
16. Was the request for compensation timely?		Yes

## PART II: SUBSTANTIAL CONTRIBUTION

A. In the fields below, describe in a concise manner Claimant’s contribution to the final decision (*see* § 1802(i), § 1803(a) & D.98-04-059).

Contribution	Specific References to Claimant’s Presentations and to Decision	Showing Accepted by CPUC
1. A4NR is the only entity requesting a Prehearing Conference in response to PG&E’s request for an additional \$47.5 million.	Claimant’s Protest in A.10-01-014 filed October 14, 2011.  PG&E’s Reply filed October 28, 2011 stated it “does not object to ANR’s request.”  This request was granted (Commission Order, November 4, 2011).	Yes
2. A4NR alerts Commission Executive Director to IPRP’s Bagley-Keene compliance issues.	Email from Claimant’s counsel to Paul Clanon, January 24, 2012.  Subsequent meetings of the IPRP throughout the proceeding were conducted consistently with Bagley-Keene, affording the public with notice, copies of written materials, and an opportunity to observe and comment upon IPRP deliberations.	Yes

3. After attending January 23, 2012 IPRP meeting, A4NR alerts Commissioners to inadequate engagement with USGS.	Claimant's Notice of Written Ex Parte Communication filed February 1, 2012.  Letter from Energy Division Chief (served March 2, 2012) attaching letter from USGS which offered staff collaboration in response to personal intervention of Commissioner Florio.	Yes
4. A4NR alerts IPRP and State Lands Commission to PG&E's misstatement that the IPRP at its February 6, 2012 meeting had "concurred with PG&E's seismic survey project description" and "recommended that the SLC proceed to issue a draft Environmental Impact Report."	Discussed in Claimant's Opening Brief, filed May 18, 2012, at 26 - 27.  IPRP Report No. 3, adopted April 6, 2012 and introduced as PG&E-5, clarified the IPRP's differences with PG&E's study design.	Yes
5. A4NR defeats separate written motions by PG&E to strike the entire testimony of two of its three witnesses, Dr. Douglas Hamilton and Ms. Rochelle Becker.	Claimant's verbal argument, Prehearing Conference Transcript, February 23, 2012, at 41 - 42.  ALJ ruling, Prehearing Conference Transcript, February 23, 2012, at 42.	Yes
6. A4NR defeats PG&E motion seeking protective order designed to stall IPRP access to seismic survey vendor bids.	Claimant's Opposition, filed March 15, 2012.  ALJ ruling, Evidentiary Hearing Transcript, April 18, 2012, at 9 - 14.	Yes
7. A4NR successfully raises concerns about major gaps in PG&E's study scope which require correction, eliciting Commission direction to PG&E.	A4NR-3; A4NR Opening Brief, at 1 - 12; A4NR Reply Brief, at 1 - 5.  D.12-09-008, at 7 - 8.	Yes
8. A4NR cross examination of PG&E identifies multiple instances of USGS personnel questioning regional fault characterizations along the Central Coast.	Evidentiary Hearing Transcript, April 18, 2012, at 69 - 70.  D.12-09-008, at 5, footnote 14, and at 17, footnote 51.	Yes
9. A4NR cross examination of PG&E identifies value of ocean-bottom seismometers in establishing location and focal mechanisms of Hosgri and Shoreline fault zones.	Evidentiary Hearing Transcript, April 18, 2012, at 121.  D.12-09-008, at 12, footnote 37.	Yes
10. A4NR successfully establishes importance of retaining outside experts, eliciting candid Commission acknowledgment, "We have no in-house	A4NR-2, at 3 - 4; A4NR Opening Brief, at 20 - 24; A4NR Reply Brief, at 17.	Yes

scientific or technical expertise to review seismic studies or perform analyses.”	D.12-09-008, at 23, Conclusion of Law 7, at 27, Conclusion of Law 9, at 27, Ordering Paragraph 6, at 28, Ordering Paragraph 9, at 29.	
11. A4NR successfully opposes ORA’s proposed cap on seismic studies.	A4NR-2, at 2; A4NR-3, at 6 - 7; A4NR Opening Brief, at 12 - 17; A4NR Reply Brief, at 11 - 14. D.12-09-008, at 21.	Yes
12. A4NR rebuts PG&E’s and Southern California Edison Company’s (SCE) federal pre-emption arguments, successfully urges adoption of prophylactic non-interference language.	Claimant’s verbal argument, Prehearing Conference Transcript, February 23, 2012, at 41 - 42; A4NR Opening Brief, at 3 - 4; A4NR Reply Brief, at 5 - 11. D.12-09-008, Conclusion of Law 8, at 27.	Yes
13. A4NR partially succeeds in its transparency objectives for the IPRP process.	A4NR Opening Brief, at 24 - 31; A4NR Reply Brief, at 18. D.12-09-008, Conclusion of Law 6, at 28 - 29.	Yes
14. A4NR establishes that, despite prominent mention in the Scoping Memo, tsunami studies have not been addressed in the proceeding.	A4NR Opening Brief, at 1. D.12-09-008, footnote 9, at 5.	Yes

**B. Duplication of Effort (§§ 1801.3(f) & 1802.5):**

	<b>Claimant</b>	<b>CPUC Verified</b>
<b>a. Was the Office of Ratepayer Advocates (ORA)<sup>2</sup> a party to the proceeding?</b>	<b>Yes</b>	<b>Verified</b>
<b>b. Were there other parties to the proceeding with positions similar to yours?</b>	<b>No</b>	<b>Verified</b>
<b>c. If so, provide name of other parties:</b> Apart from PG&E and ORA, the only other active party in the proceeding beside A4NR was SCE.		<b>Verified</b>

<sup>2</sup> The Division of Ratepayer Advocates was renamed the Office of Ratepayer Advocates effective September 26, 2013, pursuant to Senate Bill No. 96 (Budget Act of 2013), which was approved by the Governor on September 26, 2013.

<p><b>d. Describe how you coordinated with ORA and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party:</b></p> <p>A4NR's position was adverse to ORA throughout the proceeding, particularly with regard to questioning the scope of PG&amp;E's proposed seismic studies, the necessity of independent review, and the imprudence of an arbitrary cost cap on the studies without expert assessment. The premise of A4NR's involvement in the proceeding was an absence of professional seismic expertise at the Commission, and the resultant risk of inadequate advance review of PG&amp;E's proposed scope of work. This deficiency, which extends to ORA, was a prominent feature of A4NR's initial response to PG&amp;E's motion to reopen A.10-01-014 (see A4NR Protest, October 14, 2011, at 3 - 5) and the points made by A4NR throughout the proceeding. SCE's participation focused on asserting the pre-emptive nature of federal jurisdiction over much of the subject matter of the proceeding, a position diametrically opposite to A4NR's. Consequently, while no opportunity for coordination with the other parties presented itself, no duplication took place either.</p>	<p><b>Verified</b></p>
--	------------------------

### **PART III: REASONABLENESS OF REQUESTED COMPENSATION**

#### **A. General Claim of Reasonableness (§§ 1801 & 1806):**

<p><b>a. Concise explanation as to how the cost of Claimant's participation bears a reasonable relationship with benefits realized through participation:</b></p> <p>Had A4NR not been an aggressive intervenor, the Commission would have likely failed to question the inadequate scope initially proposed by PG&amp;E (especially with respect to the Diablo Cove Fault and the San Luis Range/Inferred Offshore Fault) or strengthen the independent oversight of PG&amp;E's trouble-plagued seismic study program. Several decades of ratepayer funding of seismic work notwithstanding, the US Government Accountability Office reported last spring that PG&amp;E has not updated its formal Diablo Canyon seismic assessment since 1988. Unavoidably, the Commission's historic complacency in this area bears some culpability.</p> <p>A4NR's participation deepened the scope of what PG&amp;E originally proposed, bolstered the necessity of engaging independent outside experts, and considerably strengthened the role played by the previously timid IPRP. As a result, the post-Fukushima review of the seismic setting at Diablo Canyon will be significantly more robust, and transparent, than would otherwise be the case.</p> <p>The horrific costs stemming from earthquake catastrophe at Diablo Canyon, or its abrupt seismic-related shutdown ("tens of billions of dollars" in economic dislocation from rolling blackouts, according to the Legislative Analyst's review of a proposed ballot measure to close the</p>	<p><b>CPUC Verified</b></p> <hr/> <p><b>Verified</b></p>
--	--

plant), make clear that the costs of A4NR's participation were reasonable in relationship to the benefits achieved.	
<p><b>b. Reasonableness of Hours Claimed</b></p> <p>A4NR's small staff is geographically dispersed between San Diego and San Luis Obispo. To assure a consistent work product and avoid duplication of effort, Becker and Mr. Weisman have perfected a collaborative work style. Early in this proceeding, A4NR enlisted external counsel with offices in Oakland. Guidance to and from Mr. Geesman has relied upon extensive use of email. Hamilton performed his analysis at a fraction of the cost PG&amp;E pays its external geotechnical consultants. Senator Blakeslee provided his expert testimony for free. Both the Independent Peer Review Panel deliberations and the State Lands Commission permit process were inextricably linked to the proceeding, and CPUC staffing deficiencies made A4NR by default the sole advocate there of the type of robust, objective studies necessary to inspire public confidence that Diablo Canyon's seismic setting will be better understood before decisions are made on relicensing. (PG&amp;E's self-canceling claim that the studies will simply confirm prior conclusions has, at least for now, proven fatal to obtaining Coastal Commission permits.) Based on its accomplishments in this proceeding, especially given the absence of any other party with a similar viewpoint, A4NR believes its time expenditures have been reasonable and worthwhile.</p>	<p><b>Verified</b></p>
<p><b>c. Allocation of Hours by Issue</b></p> <p>1) The scope of the seismic and tsunami studies identified by the applicant: 73.8%</p> <p>2) The costs of the studies, and whether they should be capped: 7.3%</p> <p>3) Whether shareholders of PG&amp;E will bear a share of the costs: 3.0%</p> <p>4) Whether outside experts should be retained to review the planned studies and their costs: 5.8%</p> <p>5) The structure of the Independent Peer Review Panel authorized in D.10-08-003: 7.4%</p> <p>General: 2.7%</p>	<p><b>Verified</b></p>

**B. Specific Claim:\***

CLAIMED <sup>3</sup>						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
John Geesman	2011	2.40	\$535	Res. ALJ-267	\$1,284.00	2.40	\$535	\$1,284.00
John Geesman	2012	370.14	\$545	Res. ALJ-281	\$201,726.30	370.14	\$545	\$201,726.30
Douglas Hamilton	2012	181.00	\$225	Res. ALJ-281	\$40,725.00	181	\$225	\$40,725.00
Rochelle Becker	2011	11.95	\$155	Res. ALJ-267	\$1,852.25	11.95	\$125	\$1,493.75
Rochelle Becker	2012	68.83	\$160	Res. ALJ-281	\$11,012.80	68.83	\$130	\$8,947.90
David Weisman	2011	8.75	\$125	Res. ALJ-267	\$1,093.75	8.75	\$80	\$700.00
David Weisman	2012	108.50	\$130	Res. ALJ-281	\$14,105.00	108.50	\$80	\$8,680.00
	Subtotal:				\$271,799.10	Subtotal:		\$263,556.95
OTHER FEES								
Describe here what OTHER HOURLY FEES you are Claiming (paralegal, travel **, etc.):								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Rochelle Becker	2011	8.00	\$77.50	Travel @ 50%	\$620.00	8.0	\$62.50	\$500.00
Rochelle Becker	2012	66.00	\$80.00	Travel @ 50%	\$5,280.00	8.0	\$65	\$520.00
David Weisman	2012	28.00	\$65.00	Travel @ 50%	\$1,820.00	8.0	\$40	\$320.00
Douglas Hamilton	2012	16.00	\$112.50	Travel @ 50%	\$1,800.00	8.0	\$80	\$640.00
	Subtotal:				\$9,520.00	Subtotal:		\$1,980.00
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Rochelle Becker	2012	2.00	\$80.00	Claim Prep. @ 50%	\$160.00	2.0	\$65	\$130.00
David Weisman	2012	12.50	\$65.00	Claim Prep. @ 50%	\$812.50	12.5	\$40	\$500.00
John Geesman	2012	4.00	\$272.50	Claim Prep. @ 50%	\$1,090.00	4.0	\$272.50	\$1,090.00
	Subtotal:				\$2,062.50	Subtotal:		\$1,720.00
COSTS								
#	Item	Detail			Amount	Amount		
	airfare				\$1,760.50	\$1,760.50		
	copies				\$131.18	\$131.18		

<sup>3</sup> The Commission has revised A4NR's information presented in the yearly rate table. A4NR must not combine years for the same individual in one line. The proper format for completing this table is to list each individual and the amount of hours he/she completed in the proceeding one year at a time.

	hotels		\$2,823.50	\$2,823.50	
	parking		\$55.00	\$55.00	
	postage		\$16.50	\$16.50	
	rail		\$1,020.15	\$1,020.15	
	taxis		\$154.42	\$154.42	
<b>Subtotal:</b>			<b>\$5,961.25<sup>4</sup></b>	<b>Subtotal:</b>	<b>\$5,961.25</b>
<b>TOTAL REQUEST \$:</b>			<b>\$289,342.85</b>	<b>TOTAL AWARD</b>	<b>\$273,218.20</b>

\*We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Claimant's records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.

\*\*Travel and Reasonable Claim preparation time typically compensated at ½ of preparer's normal hourly rate.

<b>Attorney</b>	<b>Date Admitted to CA BAR<sup>5</sup></b>	<b>Member Number</b>	<b>Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation</b>
John Geesman	June 28, 1977	74448	Yes; on July 21, 1980 Geesman's license was suspended for failure to pay Bar member fees. From July 21, 1980 until February 4, 1981, Geesman was an Inactive Member of the California State Bar.

### C. Additional Comments and Attachments on Part III:

<b>Attachment or Comment #</b>	<b>Description/Comment</b>
1	Certificate of Service
2	Time records of John Geesman
3	Time records of Douglas Hamilton
4	Time records of Rochelle Becker
5	Time records of David Weisman

<sup>4</sup> Please note, in A4NR's original filed claim, the subtotal in this section was listed as \$10,041.25. However, an error was identified while reviewing A4NR's submitted timesheets and attachments. The error has been corrected and the correct subtotal in this section is \$5,961.25.

<sup>5</sup> This information may be obtained at: <http://www.calbar.ca.gov/>.



6	Justification of ALJ-267 and ALJ-281 Rates for John Geesman
7	Justification of ALJ-281 Rate for Douglas Hamilton
8	Justification of ALJ-267 and ALJ-281 Rates for Rochelle Becker
9	Justification of ALJ-267 and ALJ-281 Rates for David Weisman
10	Copy of CPUC 10-014 expense-sort (Excel) A4NR receipts A.10-01-014.pdf

**D. CPUC Disallowances & Adjustments:**

#	Reason
1. Adoption of Geesman's hourly rate(s).	A4NR requests an hourly rate of \$535 for Geesman in 2011 and 2012. Geesman is an attorney who has served in state government and served as an investment banker in construction financing, specializing in utility projects, with a lapse in his California bar license in 1980. The Commission adopts an hourly rate of \$535 for Geesman's 2011 work. We base this rate on those suggested for attorneys with over 13 years of experience in Resolution ALJ-267. We apply a COLA of 2.2%, pursuant to Resolution ALJ-281, to the \$535 hourly rate to adopt a 2012 hourly rate for John Geesman of \$545.
2. Adoption for Hamilton's hourly rate(s).	Hamilton holds California Professional Geologist license No. 56 and is Certified Engineering Geologist No. 31. Both of these licenses were obtained in 1970. In addition, since 2001, Hamilton holds a Washington Professional Geologist and Engineering Geologist license No. 1710. Hamilton's commercial billing rate for A4NR is \$225 per hour, which is within the range for experts with 13+ years of experience (See Resolution ALJ-281). Therefore, the rate of \$225 per hour is adopted for work Hamilton completed in 2012.
3. Adoption of Becker's hourly rate(s).	A4NR requests an hourly rate of \$155 for Becker in 2011 and \$160 per hour for 2012. A 2011 hourly rate of \$125 was established for Becker in D.13-03-023. We use that rate in deciding this intervenor compensation claim. For 2012, we apply the 2.2% COLA increase, pursuant to Resolution ALJ-281, to Becker's 2011 hourly rate. We adopt an hourly rate of \$130 for Becker in 2012.
4. Adoption of Weisman's hourly rate(s).	A4NR requests an hourly rate of \$125 for Weisman in 2011 and 2012. A 2011 hourly rate of \$75 was established for Weisman in D.13-03-023. We use that rate in deciding this intervenor compensation claim. For 2012, we apply the 2.2% COLA increase, pursuant to Resolution ALJ-281, to Weisman's 2011 hourly rate. We adopt an hourly rate of \$80 for Weisman in 2012.
5. Disallowance for failure to document costs.	Travel hours for Becker were not justified (although the time sheet summary shows the dates and hours). In addition, the hours of travel are almost the same number of hours devoted to other work and this is therefore excessive given the claim to have used telephone and email to reduce costs.

6. Disallowance for failure to document costs.	Travel hours for Weisman were also unjustified. Note however we have not adjusted other actual expenses for air fare, hotels, etc., even though these costs have not been individually identified and justified by purpose and traveler.
--	--

#### **PART IV: OPPOSITIONS AND COMMENTS**

<b>A. Opposition: Did any party oppose the Claim?</b>	No
<b>B. Comment Period: Was the 30-day comment period waived (<i>see</i> Rule 14.6(2)(6))?</b>	Yes

#### **FINDINGS OF FACT**

1. A4NR has made a substantial contribution to D.12-09-008.
2. The requested hourly rates for A4NR's representatives, as adjusted herein, are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The claimed costs and expenses, as adjusted herein, are reasonable and commensurate with the work performed.
4. The total of reasonable contribution is \$273,218.20.

#### **CONCLUSION OF LAW**

1. The Claim, with any adjustment set forth above satisfies all requirements of Pub. Util. Code §§ 1801-1812.

#### **ORDER**

1. Alliance for Nuclear Responsibility is awarded \$273,218.20.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company shall pay Alliance for Nuclear Responsibility the total award. Payment of the award shall include compound interest at the rate earned on prime, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning January 30, 2013, the 75<sup>th</sup> day after the filing of Claimant's request, and continuing until full payment is made.

3. The comment period for today's decision is waived.
4. This decision is effective today.

Dated \_\_\_\_\_, at San Francisco, California.

**APPENDIX****Compensation Decision Summary Information**

<b>Compensation Decision:</b>		<b>Modifies Decision?</b>	No
<b>Contribution Decision(s):</b>	D1209008		
<b>Proceeding(s):</b>	A1001014		
<b>Author:</b>	ALJ Division		
<b>Payer(s):</b>	Pacific Gas and Electric Company		

**Intervenor Information**

<b>Intervenor</b>	<b>Claim Date</b>	<b>Amount Requested</b>	<b>Amount Awarded</b>	<b>Multiplier?</b>	<b>Reason Change/Disallowance</b>
Alliance for Nuclear Responsibility	11/16/12	\$289,342.50	\$273,218.20	N/A	Changes in hourly rates.

**Advocate Information**

<b>First Name</b>	<b>Last Name</b>	<b>Type</b>	<b>Intervenor</b>	<b>Hourly Fee Requested</b>	<b>Year Hourly Fee Requested</b>	<b>Hourly Fee Adopted</b>
John	Geesman	Attorney	A4NR	\$535	2011	\$535
John	Geesman	Attorney	A4NR	\$545	2012	\$545
Douglas	Hamilton	Expert	A4NR	\$225	2012	\$225
Rochelle	Becker	Advocate	A4NR	\$155	2011	\$125
Rochelle	Becker	Advocate	A4NR	\$160	2012	\$130
David	Weisman	Advocate	A4NR	\$125	2011	\$80
David	Weisman	Advocate	A4NR	\$130	2012	\$80

**(END OF APPENDIX)**